

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Gary Shimun, Town Administrator, (954) 797-1030

PREPARED BY: Laurie Serur, Administrative Aide

SUBJECT: Resolution

AFFECTED DISTRICT: 3

ITEM REQUEST: Schedule for Council Meeting

TITLE OF AGENDA ITEM: AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN FPL AND THE TOWN OF DAVIE FOR AN ENERGY AND MAINTENANCE AGREEMENT FOR ONE HUNDRED FORTY EIGHT (148) STREETLIGHTS IN REXMERE VILLAGE. (not budgeted - \$31,776.14)

REPORT IN BRIEF: In accordance with the 1998 Pre-Annexation Agreement with Rexmere Village, the Town agreed to provide and maintain the streetlights as approved for use by FPL. The agreement provides for the changing out of all existing streetlights to new streetlights approved by FPL. Upon approval, FPL will install the lighting. This agreement is for the Town of Davie to accept the responsibility of the cost for energy and maintenance of the new streetlights in accordance with the annexation agreement.

PREVIOUS ACTIONS: Replacement of the previously approved resolution R-2007-223

CONCURRENCES:

FISCAL IMPACT: Yes

Has request been budgeted? No

Account Name: Street Lighting Utility Services

If no, amount needed: \$31,776.14

What account will funds be appropriated from: 001-0703-541-4301 Street Lighting Utility Services.

RECOMMENDATION(S): Approval of Resolution, Approval of Agreement

Attachment(s): Street Lighting Agreement, letters from Webber, Hinden, McLean & Arbeiter

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN FPL AND THE TOWN OF DAVIE FOR AN ENERGY AND MAINTENANCE AGREEMENT FOR ONE HUNDRED FORTY EIGHT (148) STREETLIGHTS IN REXMERE VILLAGE.

WHEREAS, on August 15, 2007, the Town of Davie Town Council adopted Resolution R-2007-223, authorizing the Mayor to enter into an agreement between FPL and the Town of Davie for an energy and maintenance agreement for one hundred fifty one (151) streetlights in Rexmere Village; and

WHEREAS, pursuant to the as-built surveys provided by the engineer for Rexmere Village to FPL, the actual number of streetlights subject to the agreement authorized in Resolution R-2007-223 is one hundred forty eight (148) streetlights, requiring an amendment to the Agreement between FPL and the Town of Davie to reflect the correct number of streetlights in Rexmere Village; and

WHEREAS, the Agreement between the Town of Davie and FPL providing for the installation, energy and maintenance of the new FPL streetlights for the Rexmere Village trafficways shall remain unchanged and in full force and effect except for the

reduction of the total number of streetlights in Rexmere Village from one hundred fifty one (151) to one hundred forty eight (148).

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. The Town Council of the Town of Davie hereby authorizes the Mayor to enter into an amendment to the existing Energy and Maintenance Agreement between FPL and the Town of Davie reducing the total number of streetlights in Rexmere Village to one hundred forty eight (148).

SECTION 2. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2008

R

ATTEST:

MAYOR/COUNCILMEMBE

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2008



FPL Account Number: **26786-54886**

FPL Work Order Number: **1862781**

STREET LIGHTING AGREEMENT

In accordance with the following terms and conditions, **TOWN OF DAVIE** (hereinafter called the Customer), requests on this **23** day of **July, 2008**, from **FLORIDA POWER & LIGHT COMPANY** (hereinafter called FPL), a corporation organized and existing under the laws of the State of Florida, the following installation or modification of street lighting facilities at (general boundaries) **REXMERE VILLAGE**, located in **DAVIE / BROWARD COUNTY**, Florida.
(city/county)

(a) Installation and/or removal of FPL-owned facilities described as follows:

Lights Installed			Lights Removed		
Fixture Rating (in Lumens)	Fixture Type	# Installed	Fixture Rating (in Lumens)	Fixture Type	# Removed
18,000	SCH	148			

Poles Installed		Poles Removed		Conductors Installed	Conductors Removed
Pole Type	# Installed	Pole Type	# Removed		
30' CONC	148			24,247 Feet not Under Paving	Feet not Under Paving
				Feet Under Paving	Feet Under Paving

(b) Modification to existing facilities other than described above (explain fully): _____

That, for and in consideration of the covenants set forth herein, the parties hereto covenant and agree as follows:

FPL AGREES:

1. To install or modify the street lighting facilities described and identified above (hereinafter called the Street Lighting System), furnish to the Customer the electric energy necessary for the operation of the Street Lighting System, and furnish such other services as are specified in this Agreement, all in accordance with the terms of FPL's currently effective street lighting rate schedule on file at the Florida Public Service Commission (FPSC) or any successive street lighting rate schedule approved by the FPSC.

THE CUSTOMER AGREES:

2. To pay a contribution in the amount of \$0 prior to FPL's initiating the requested installation or modification.
3. To purchase from FPL all of the electric energy used for the operation of the Street Lighting System.
4. To be responsible for paying, when due, all bills rendered by FPL pursuant to FPL's currently effective street lighting rate schedule on file at the FPSC or any successive street lighting rate schedule approved by the FPSC, for facilities and service provided in accordance with this agreement.
5. To provide access, final grading and, when requested, good and sufficient easements, suitable construction drawings showing the location of existing and proposed structures, identification of all non-FPL underground facilities within or near pole or trench locations, and appropriate plats necessary for planning the design and completing the construction of FPL facilities associated with the Street Lighting System.
6. To perform any clearing, compacting, removal of stumps or other obstructions that conflict with construction, and drainage of rights-of-way or easements required by FPL to accommodate the street lighting facilities.

IT IS MUTUALLY AGREED THAT:

7. Modifications to the facilities provided by FPL under this agreement, other than for maintenance, may only be made through the execution of an additional street lighting agreement delineating the modifications to be accomplished. Modification of FPL street lighting facilities is defined as the following:
 - a. the addition of street lighting facilities;
 - b. the removal of street lighting facilities; and
 - c. the removal of street lighting facilities and the replacement of such facilities with new facilities and/or additional facilities.Modifications will be subject to the costs identified in FPL's currently effective street lighting rate schedule on file at the FPSC, or any successive schedule approved by the FPSC.
8. FPL will, at the request of the Customer, relocate the street lighting facilities covered by this agreement, if provided sufficient right-of-ways or easements to do so. The Customer shall be responsible for the payment of all costs associated with any such Customer-requested relocation of FPL street lighting facilities. Payment shall be made by the Customer in advance of any relocation.
9. FPL may, at any time, substitute for any luminaire/lamp installed hereunder another luminaire/lamp which shall be of at least equal illuminating capacity and efficiency.
10. This Agreement shall be for a term of ten (10) years from the date of initiation of service, and, except as provided below, shall extend thereafter for further successive periods of five (5) years from the expiration of the initial ten (10) year term or from the expiration of any extension thereof. The date of initiation of service shall be defined as the date the first lights are energized and billing begins, not the date of this Agreement. This Agreement shall be extended automatically beyond the initial the (10) year term or any extension thereof, unless either party shall have given written notice to the other of its desire to terminate this Agreement. The written notice shall be by certified mail and shall be given not less than ninety (90) days before the expiration of the initial ten (10) year term, or any extension thereof.
11. In the event street lighting facilities covered by this agreement are removed, either at the request of the Customer or through termination or breach of this Agreement, the Customer shall be responsible for paying to FPL an amount equal to the original installed cost of the facilities provided by FPL under this agreement less any salvage value and any depreciation (based on current depreciation rates as approved by the FPSC) plus removal cost.
12. Should the Customer fail to pay any bills due and rendered pursuant to this agreement or otherwise fail to perform the obligations contained in this Agreement, said obligations being material and going to the essence of this Agreement, FPL may cease to supply electric energy or service until the Customer has paid the bills due and rendered or has fully cured such other breach of this Agreement. Any failure of FPL to exercise its rights hereunder shall not be a waiver of its rights. It is understood, however, that such discontinuance of the supplying of electric energy or service shall not constitute a breach of this Agreement by FPL, nor shall it relieve the Customer of the obligation to perform any of the terms and conditions of this Agreement.
13. The obligation to furnish or purchase service shall be excused at any time that either party is prevented from complying with this Agreement by strikes, lockouts, fires, riots, acts of God, the public enemy, or by cause or causes not under the control of the party thus prevented from compliance and FPL shall not have the obligation to furnish service if it is prevented from complying with this Agreement by reason of any partial, temporary or entire shut-down of service which, in the sole opinion of FPL, is reasonably necessary for the purpose of repairing or making more efficient all or any part of its generating or other electrical equipment.
14. This Agreement supersedes all previous Agreements or representations, either written, oral or otherwise between the Customer and FPL, with respect to the facilities referenced herein and constitutes the entire Agreement between the parties. This Agreement does not create any rights or provide any remedies to third parties or create any additional duty, obligation or undertakings by FPL to third parties.
15. This Agreement shall inure to the benefit of, and be binding upon the successors and assigns of the Customer and FPL.
16. This Agreement is subject to FPL's Electric Tariff, including, but not limited to, the General Rules and Regulations for Electric Service and the Rules of the FPSC, as they are written, or as they may be hereafter revised, amended or supplemented. In the event of any conflict between the terms of this Agreement and the provisions of the FPL Electric Tariff or the FPSC Rules, the provisions of the Electric Tariff and FPSC Rules shall control, as they are now written, or as they may be hereafter revised, amended or supplemented.

IN WITNESS WHEREOF, the parties hereby caused this Agreement to be executed in triplicate by their duly authorized representatives to be effective as of the day and year first written above.

Charges and Terms Accepted:

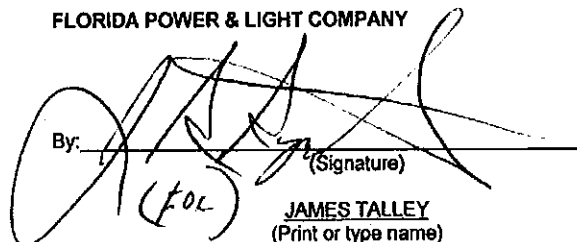
TOWN OF DAVIE
Customer (Print or type name of Organization)

By: _____
Signature (Authorized Representative)

(Print or type name)

Title: _____

FLORIDA POWER & LIGHT COMPANY

By: _____
(Signature)

JAMES TALLEY
(Print or type name)

Title: Construction Services Representative

****As Billed Rate
Factors of 05/01/2007**

	Basis	Factor	Charge
Enter Quantity	148		
Enter Lamp Wattage	150		
KWH/Mo. Estimate (per street light)	60		
			\$ 532.80
Street Light Charge (select code below)		\$ 6.55	\$969.40
Fuel Charge	8,880	\$ 0.06110	\$542.57
Conservation Charge	8,880	\$ 0.00071	\$6.30
Environmental Charge	8,880	\$ 0.00019	\$1.69
Capacity Charge	8,880	\$ 0.001750	\$15.54
Storm Charge	8,880	\$ 0.001600	\$14.21
FPL Amount			\$ 2,082.51
Gross Receipts Tax	\$ 2,082.51	2.5641%	\$53.40
Subtotal			\$2,135.91
Enter Franchise Charge	\$2,135.91	6.022%	\$128.62
Total Monthly Amount			\$2,264.53

Regards,

Ray Rynning
Governmental Account Manager
Central Broward Office
Cell: 954-275-1526
Office: 954-321-2259
Fax: 954-321-2173
Bpr: (800) 447-2433 #7809



eMail: ray_rynning@fpl.com 20080723141049793.pdf

WEBBER, HINDEN, McLEAN & ARBEITER

A PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

4430 SOUTHWEST 64TH AVENUE

DAVIE, FLORIDA 33314

MAILING ADDRESS

POST OFFICE BOX 848549

PEMBROKE PINES, FLORIDA 33084-0549

BARRY S. WEBBER
JON A. HINDEN
SUZANNE M. McLEAN
SHAWN D. ARBEITER

DAVID E. GOODMAN
(1935-1992)

TELEPHONE (954) 587-3058
TELECOPIER (954) 587-1770

RECEIVED
JUL 21 2008

July 21, 2008

Town of Davie
6591 Orange Drive
Davie, FL 33314

Via Hand Delivery

Attn: Mr. Gary Shimun, Town Administrator

Re: Rexmere Village – Town of Davie – FPL Agreement for Streetlights
Our File Number: E-1692

Dear Mr. Shimun:

Pursuant to the instructions of Mayor Tom Truex, we are hand delivering the following documents to your attention:

1. Copy of Town of Davie Resolution R-2007-223, including attached FPL-Town of Davie Agreement; and
2. Original and three (3) copies of draft of Resolution and attached amendment to FPL-Town of Davie Agreement reducing the total number of streetlights to be installed, energized and maintained in Rexmere Village from one hundred fifty one (151) to one hundred forty eight (148).

As you are aware, the owner of Rexmere Village has been working with the Town of Davie and FPL for almost a decade to complete the installation of streetlights in Rexmere Village in accordance with the 1998 Pre-Annexation Agreement. FPL has stated in writing that FPL requires the attached amendment [which only serves to reduce the responsibilities of the Town of Davie] before FPL will commence installation of the new streetlights in Rexmere Village.

Our client, the owner of Rexmere Village, is planning a “Let There Be Light” kick-off celebration in Rexmere Village when FPL energizes the new streetlights [to be attended by Town of Davie Council and Officials and FPL representatives] and our client is hoping to schedule this celebration within the next few months.

Mayor Tom Truex has requested that the Administration place the attached simple Resolution and Amendment to Agreement on the next Consent Agenda. Please call if you have any questions.

Very truly yours,



Jon A. Hinden

jah

cc: Mayor Tom Truex (w/encl.)
Councilmember Susan Starkey (w/encl.)
Councilmember Bryan Caletka (w/encl.)
Ben Wesley @ FPL (w/encl.)

WEBBER, HINDEN, McLEAN & ARBEITER

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July 24, 2008

Florida Power & Light Co.
4000 Davie Road Extension
Hollywood, FL 33024
Attn: James Talley

Via Hand Delivery

Re: Rexmere Village Streetlights
Our File Number: E-1692

Dear Mr. Talley:

Pursuant to our emails of yesterday afternoon, attached please find four (4) sets of As Built Surveys of the FPL Easement in the Rexmere Village community and an original Certification from A. F. Webber III, P.E., Consulting Engineer for Rexmere Village, confirming that pursuant to the directions of FPL, Rexmere has completed the installation all conduit and handhole locations in the FPL Easement for all one hundred forty eight (148) streetlight locations in Rexmere Village.

As you are aware, pursuant to the directions of the Town of Davie Mayor Tom Truex, on Monday, July 21, 2008, we hand delivered a Resolution to Mr. Gary Shimun, Town Administrator for the Town of Davie to be adopted by the Town of Davie Town Council to authorize Mayor Tom Truex to re-execute the streetlight agreement [which was the subject of Town of Davie Resolution R-2007-223, adopted August 15, 2007] reducing the number of streetlights in Rexmere Village, as reflected in the Agreement, from 151 to 148. We anticipate that the Town of Davie will adopt the new Resolution and the Mayor will execute the new Streetlight Agreement at the next scheduled Town Council meeting.

Our client, and the residents of Rexmere Village, eagerly look forward to FPL shortly commencing the installation of the concrete poles, the electrical wiring in the already installed conduit and then energizing the 148 streetlights [and illuminating the Rexmere Village streets which have been "in the dark" for many years]. On behalf of our client, we thank you for FPL's attention to this matter. If you have any questions, please do not hesitate to call.

Very truly yours,

Jon A. Hinden

cc: ben_wesley@fpl.com
ray_rynning@fpl.com
Mayor Tom Truex
Councilmember Susan Starkey
Councilmember Bryan Caletka
Town Administrator Gary Shimun
Le_Nguyen@davie-fl.gov
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